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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,956	05/01/2007	Thorsten Lohmar	P19248-US1	8416
27045	7590	04/05/2010	EXAMINER	
ERICSSON INC. 6300 LEGACY DRIVE M/S EVR 1-C-11 PLANO, TX 75024			RECEK, JASON D	
			ART UNIT	PAPER NUMBER
			2442	
			NOTIFICATION DATE	DELIVERY MODE
			04/05/2010	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

melissa.wingo@ericsson.com  
kara.coffman@ericsson.com  
jennifer.hardin@ericsson.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/597,956	<b>Applicant(s)</b> LOHMAR ET AL.	
	<b>Examiner</b> JASON RECEK	<b>Art Unit</b> 2442	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2010.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-16 and 22-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16, 22-27 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                        | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

This is in response to the RCE filed on February 9<sup>th</sup> 2010.

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 2/9/10 has been entered.

### ***Status of Claims***

Claims 1-16 and 22-27 are pending, of which claims 1, 22 and 26-27 are currently amended.

### ***Response to Arguments***

2. Applicant's arguments, see pg. 9, with respect to the claim objections have been fully considered and are persuasive. The objection of claims 22 and 26 has been withdrawn.

3. Applicant's arguments, see pg. 9-10, with respect to the 101 rejection have been fully considered and are persuasive. The 101 rejection of claims 22-24 has been withdrawn.

4. Applicant's arguments, see pg. 10, with respect to the 112 rejections have been fully considered and are persuasive. The 112 rejection of claims 1-16 and 27 has been withdrawn.

5. Applicant's arguments, see pg. 11-14 have been fully considered but they are not persuasive. Applicant argues:

a. Tatsumi does not disclose transmitting data via an unreliable downlink-only path (pg. 11-12). In response, examiner directs applicant to Fig. 1 of Tatsumi where a broadcasting path is clearly disclosed as item 121. Applicant seems to be referring to the bi-directional communication path, item 122 to support this argument. Paragraph 19, upon which applicant relies, not only teaches "a broadcasting path" but also "a bidirectional communication path", as can be seen in Fig. 1. Applicant is likely aware that when two different terms are used, it is generally assumed they are referring to different things. In this case the "bidirectional communication path" disclosed by Tatsumi is not referring to the "broadcasting path" as suggested by applicant. Since Tatsumi teaches both a downlink only path and a bi-directional path, it discloses "an unreliable downlink-only communications pathway" as recited by the claims.

b. Takagi does not disclose the broadcaster providing "... sufficient information to handle any of the post processing transactions ..." as claimed in claim 1 because it concerns annotations (pg. 13). In response, it is pointed out that this is not

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what Takagi was cited as teaching. Takagi was relied upon for teaching a plurality of proxy servers which are different/separate from the plurality of clients. Thus applicant's argument that Takagi does not disclose a different feature, whether or not persuasive, is irrelevant to the rejection. Tatsumi teaches that a broadcaster can provide sufficient information to perform post-processing transactions (paragraphs 20-21) as discussed in the detailed rejection below.

c. Claims 2-5, 8-16, 23-25 and 27 are allowable for similar reasons (pg. 13).

In response, the independent claims argued above were not found allowable.

d. Hudson does not cure the deficiencies of Tatsumi or Takagi concerning claim 6 (pg. 13-14). In response, the arguments presented concerning Tatsumi and Takagi were not persuasive. Therefore, Hudson need not cure any deficiencies. Hudson was cited for teaching further limitations found in claim 6 that applicant is not currently arguing.

### ***Claim Rejections - 35 USC § 103***

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 1-5, 7-16 and 22-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tatsumi et al. US 2002/0095635 A1 in view of Takagi et al. US 2002/0065842 A1.

Regarding claim 1, Tatsumi discloses "the broadcaster transmitting the content data simultaneously to the plurality of clients via an unreliable downlink-only communications pathway" as broadcasting data through a broadcasting path (downlink-only) which is not error-free (paragraph 19, Fig. 1 item 121) and "coupling the plurality of clients to a proxy server to initiate post-processing transactions" clients contain functionality for post processing transactions such as retransmission request (Fig. 1, paragraphs 19-22), "the broadcaster communicating with the proxy server to provide sufficient information to handle any of the port-processing transactions requested" retransmission is a post-processing transaction (Fig. 6, paragraphs 20-21), "determining ... available proxy servers", "randomly selecting" and "contacting ... the selected proxy server" as selecting a path (paragraph 26).

Tatsumi does not explicitly disclose a "a plurality of available proxy servers" or "the plurality of clients is different from the plurality of proxy servers" however this is taught by Takagi as proxy server that is separate from the client and performs post-processing (paragraph 166). The proxy server taught by Takagi is also in bi-directional communication with the client as required by the claims (Fig. 18). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tatsumi with the proxy server taught by Takagi for the purpose of serving clients. Takagi discloses that by using a proxy server post processing of received data may be accomplished which simplifies the data for the user (paragraph 59). Proxy servers are well known in the art and yield predictable results (as evidenced by Takagi). Thus this

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is merely the combination of known elements according to their established function in order to yield a predictable result.

Regarding claim 2, Tatsumi discloses “contact intervals ... specifying the time period in which the proxy servers may be contacted” as specifying a retransmission waiting time (paragraphs 121-124).

Regarding claim 3, Tatsumi discloses “sending ... information pertaining to content data that has or has not been correctly received” (paragraph 117).

Regarding claim 4, Tatsumi discloses “sending ... information to reconstruct the content data” (paragraphs 157-158).

Regarding claim 5, Tatsumi discloses “sending ... a notification that the content data was either successfully or unsuccessfully received” (paragraph 118).

Regarding claim 7, Tatsumi discloses “prompts within the content data” (paragraph 114).

Regarding claim 8, Tatsumi discloses “purchase of an object or service” (paragraph 114).

Regarding claim 9, Tatsumi discloses “a request to obtain additional content data” (paragraph 97).

Regarding claim 10, Tatsumi discloses “a URL within ... the data” (paragraph 65).

Regarding claim 11, Tatsumi does not explicitly disclose “providing, by the broadcaster to each of the proxy servers, at least a portion of the content data” however this is taught by Tatsumi as transferring data to the retransmitting (proxy server) for the purpose of retransmitting (paragraph 157). Takagi also teaches this as providing data from the web server (i.e. broadcaster) to the proxy server (Fig. 18).

Regarding claim 12, Tatsumi discloses “information ... is in embedded in the broadcast” (paragraph 64).

Regarding claim 13, Tatsumi discloses “contact intervals ... is embedded in the broadcast” as a receiving end time which indicates the beginning of a contact interval (paragraph 65).

Regarding claim 14, Tatsumi discloses “selection based on an attribute of the plurality of clients” (paragraph 98).

Regarding claim 15, Tatsumi discloses “multicast” (paragraph 68).



Regarding claim 16, Tatsumi does not explicitly disclose "adjusting the number of available proxy servers ... based on the number of post-processing transactions" however it is well known in the art to adjust resources based on usage requirements and thus the modification of Tatsumi to adjust the number of retransmitting stations (proxy servers) based on demand is merely applying that which is well known in the art in order to yield a predictable result (system capability to handle required load).

Regarding claims 22, and 25, they are apparatus claims that correspond to the method of claim 1, therefore they are rejected for similar reasons.

Regarding claim 23, it corresponds to the method of claim 2, therefore it is rejected for similar reasons.

Regarding claim 24, Tatsumi discloses "determines one or more post-processing transactions" as setting a retransmission request permission (paragraph 64).

Regarding claim 26, it corresponds to claim 1 (i.e. determining, selecting, contacting), since those functions are performed by the client. Therefore, the corresponding parts are rejected for similar reasons. Tatsumi also discloses "a reception unit for receiving broadcasted content" (Fig. 6).

Regarding claim 27, Tatsumi discloses "specifying the time period in which the proxy servers may be contacted after the broadcast" start time and end time (paragraph 64), "contact unit for contacting the selected proxy server contacts the selected proxy server to initiate post-processing at the specified time period" contact selection unit for retransmission (i.e. post-processing) at time specified (paragraphs 26, 98), and "selection unit for randomly selecting the delay time" set retransmission waiting time (Fig. 12).

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tatsumi and Takagi in view of Hudson et al. US 2003/0204613 A1.

Regarding claim 6, the combination of Tatsumi and Takagi does not explicitly disclose "a digital rights manager" however this is taught by Hudson (paragraph 70). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Tatsumi with the DRM taught by Hudson for the purpose of distributing content. A DRM is well known in the art and yields predictable results (as evidenced by Hudson). Thus the combination is merely the combination of known elements according to their established function in order to yields a predictable result.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Delaney et al. US 2001/0027479 A1 discloses a plurality of clients that receive data simultaneously, and using proxy servers to cache data (abstract).

Walton et al. US 2005/0120097 A1 discloses simultaneous communication with multiple users via downlink transmission (paragraph 27).

Gonno et al. US 2005/0055447 A1 discloses a unidirectional broadcasting network for simultaneous users (paragraph 46).

Herz US 6,029,195 discloses broadcasting messages, invoking post-processing to filter the data and clients in communication with a proxy server (abstract).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JASON RECEK whose telephone number is (571)270-1975. The examiner can normally be reached on Mon - Fri 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Saleh Najjar can be reached on (571) 272-4006. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jason Recek/  
Examiner, Art Unit 2442  
(571) 270-1975

/Asad M Nawaz/  
Primary Examiner, Art Unit 2455